IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9546 OF 2004

Shri. Yeshwant Janu Kumdekar. ..Petitioner.
Vs.
Shri. Nizammuddin Abdul Sattar
and ors. ..Respondents.

Mr.Dilip Bodke for the petitioner.

Mr.S.A.Sawant for the Respondent No.1.

CORAM : R.S.MOHITE, J.
DATED : 29/11/2005.

P.C.

1. This petition impugns an order passed by the Divisional Commissioner, Konkan Division on 28.4.2004 remanding the matter concerning grant of N.A. permission to the Tahsildar Rajapur for a fresh enquiry after hearing both the sides.

2. It appears that N.A. permission was initially granted by Tahsildar by his order dated 30.8.1996. The said permission was granted to the petitioner in respect of 24.50 Ares of land in Survey no.125 situated at Village Kadavali, Tal.Rajapur. The respondent No.1 is also the owner of one half portion of the same survey no. which also admeasures 24.50 Ares. The Sub Divisional Officer in appeal set aside the said N.A. order. The Collector in second appeal restored the N.A.

order by allowing the second appeal and the Commissioner has remanded the matter back for fresh enquiry to the Tahsildar, Rajapur. The main ground on which the N.A. order has been set aside is that there was no demarcation between the properties of the petitioner and the respondent No.1. Needless to say that after remand respective portion of the petitioner and respondent No.1 shall be got measured and demarcated through the competent survey authority and the matter should be decided after considering the objections of both the sides, if any, demarcating the land. The Advocate for the petitioner states that some construction has already been effected by him. Needless to say that, if the construction is within the portion for which N.A. order was earlier granted and if such N.A. order is in fact granted after enquiry, the construction will be liable to be regularised. This direction is given subject to the right of the respondent No.1 to file a statutory appeal against the order. In the circumstances, petition is disposed of.

(R.S. MOHITE, J.)